

M&I Shortage Policy - Central Valley Project

POSITION #1: Definition of the term *historic use* to be used in the M&I Shortage Policy.

BACKGROUND:

- C The draft M&I Water Shortage Policy was released February 17, 1994 (draft M&I Shortage Policy) to the public for review and comment. It identified three levels of water supply: a regulatory level where the minimum water supply would be the greater of 75 percent of contract entitlement or 85 percent of historic usage; a hydrologic shortage with a minimum level of 75 percent of *historic use* and finally a public health and safety water supply level triggered when CVP water supplies were severely constrained.
- C The draft M&I Shortage Policy defined *historic usage* as the average CVP water delivered during the last three years of normal water deliveries, adjusted for growth.
- C The CVPIA Administrative Proposal for Urban Water Supply Reliability dated June 9, 1997 (Urban Reliability Policy), reduced the draft M&I Shortage Policy from three levels to two levels. It also expanded the credit to historic use. *Historic use* was adjusted for both growth and for quantities of water associated with the implementation of any extraordinary water conservation action and/or practice.

ISSUES:

- C ***How should historic use be defined?*** Historic use is defined in the draft M&I Shortage Policy as the average CVP water delivered during the last three years of normal water deliveries, adjusted for growth.

Reclamation believes that "historic use" is actual water diverted to satisfy demand, not the amount of contract water paid for. Historic use should be defined as a 5-year period.
- C ***Should the definition of historic use be consistent with CVPIA Section 3404(a)(1)(A) for water transfers?*** No. Historic use for water in CVPIA Section 3405(a)(1)(A) refers to the average annual quantity of water under contract actually delivered to the contracting district or agency during the last three years of normal water delivery prior to the date of enactment of this title. This is what historic use means for water transfers. Shortages should reflect the recent historic past. The historic use calculation should be a dynamic calculation that changes over time as population shifts and industrial demand changes.
- C ***Should the definition for historic use be consistent with that used by the Programmatic Environmental Impact Statement (PEIS)?*** No, see answer above.
- C ***Should the definition for historic use be evaluated over the same time period as the definition in the proposed long-term contracts for "Recent Historic Average?"*** Yes. The draft long-term contract defines "Recent Historic Average" as the most recent five year average of the final forecast of Water Made Available to the contractor pursuant to this contract or preceding contract(s). The definition of historic use should be based on the most recent five year average similar to the definition of recent historic average. This is also consistent with the 5-year period used in the rate setting policy for determining water rates.
- C ***Should the term "historic use" be defined in the long-term contracts?*** The draft long-term contract discusses "Recent Historic Average." It would be appropriate to define "Historic Use" for purposes of M&I water shortages as the last 5 years of recent historic use.
- C ***What does adjusted for growth mean?*** The Urban Reliability Policy provides that historic use will be adjusted for growth. Reclamation will review historical delivery records for past water usage and

allow contractors to provide documentation to support any increases in the historical record baseline populations/industry or residential/ nonresidential. Its capped at full contractual amounts. This will be compared with the Contractor's needs analysis for the long-term renewal process and the Contractor's water management plan.

- C ***Is the allocation system based on a “water needs analysis” possible or preferable?*** The contractor's historic use of M&I water should be consistent with that presented in the M&I needs analysis, water management plans, and the water supply contingency planning requirements contained in the California Act of October 12, 1995. If a contractor is requesting additional water based on growth, the contractor would need to demonstrate there is additional residential or nonresidential demand. In essence, this is an adjustment to the contractor's previous water needs analysis.
- C ***What does “extraordinary water conservation action and/or practice” mean?*** This is discussed in detail in Issue #3. Briefly, the Urban Reliability Policy provides that historic use will be adjusted for “extraordinary water conservation action and/or practice.” Implementing good water management programs deemed to meet the water management criteria is a prerequisite for receiving the urban reliability. It is extraordinary water conservation practices that Reclamation wants the Contractors to implement and recognizes that the contractor should not be penalized in a drought years for such actions. Extraordinary water conservation are those measures that are above and beyond the practices and actions identified in the contractor's water management plan. Thus growth should adjust the historic use but extraordinary water conservation practices should not adjust the quantity down. Reclamation will determine if a water conservation practices is considered an extra ordinary conservation practice.
- C ***How should other water or supplemental water supplies be accounted for?*** Reclamation strongly encourages all of its contractors to develop supplemental sources of water supply. It is not Reclamation's intent to penalize any contractor who has a supplemental source of water supply when calculating the minimum level of water supply during water shortages. Whether Reclamation will consider other sources of water supply available to its M&I contractors depends on the severity of the overall water year type and CVP system operational constraints.

The Urban Reliability Policy provided Reclamation would work with the contractors with diversified water supplies on a case-by-case basis to ensure Reclamation's policy does not encourage water use simply to increase the amount calculated as the contractor's historic use for purposes of having a larger allocation during critical water years.

As part of the historical use calculation for water shortage allocations, Reclamation would be willing to adjust the calculated historic use quantity if an urban contractor could demonstrate it used supplemental water supplies first before using CVP water supplies. The use of supplemental water supplies benefits the CVP during all water year types.

- C ***What happens to contractors who have paid for water but not been able to take delivery of that water supply?*** East Bay Municipal Utilities District (EBMUD) has a contract for 150,000 acre-feet but because a host of factors, it has not been able to take delivery of its water supply except in one year for a limited quantity. EBMUD has made minimum payments for many years and thus believes the “quantity of water paid for” should be a starting point for “historic use” for the purposes of a minimum allocation, recognizing that “historic use” will build up over time. EBMUD is relatively unique and an adjustment would be necessary in that case, but Reclamation does not agree that paid water should be the starting position this will need to be determined on a case-by-case basis for other contractors.

ADMINISTRATION POSITION:

- C Historic use is actual water diverted to satisfy demand, not the amount of contract water paid for. Historic Use shall be the 5-year period.
- C Historic use will be adjusted for growth and development up to the Contractor's contract maximum water quantity.
- C Historic use will not be increased due to water conservation measures implemented consistent with the contractors water management plan. Reclamation will only consider extra-ordinary water conservation measures above those anticipated in the water management criteria to adjust the contractor's historical use upward during water years of reduced water supply.
- C Reclamation would be willing to adjust the calculated historic use quantity for shortage allocation, if an urban contractor could demonstrate it used supplemental water supplies first before using CVP water supplies in all water years.

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